

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Cr. No. 07-20558

DONALD DEHAR,

Honorable Sean F. Cox

Defendant.

ORDER
DETERMINING DEFENDANT COMPETENT TO STAND TRIAL

Former Counsel for the Defendant, Mr. Richard D. Korn, had previously requested this Court conduct a hearing to determine the mental competency of the Defendant Donald Dehar by filing a Motion for Competency Hearing and Evaluation. (*See* Docket Entry No. 14). This Motion was denied on April 7, 2008 by the Honorable Paul V. Gadola, in conjunction with the Court's order allowing Mr. Korn to withdraw as counsel for the Defendant. (*See* Docket Entry No. 15).

As the case proceeded, however, issues were again raised as to the competency of Defendant to stand trial.¹ At a hearing on June 11, 2008, the Court determined that there is reasonable cause to believe that Defendant Donald Dehar may presently be suffering from a

¹ The Court became aware that, in an unrelated case, United States Magistrate Judge Steven D. Pepe found reasonable cause to order the Defendant undergo a mental examination. (*See United States of America v. Dehar*, Case No. 07-CR-30074-FL, "Order for Psychological Exam..." February 28, 2007, Docket Entry No. 6). Dr. Harold S. Sommerschild, Licensed Psychologist, opined that Defendant Donald Dehar was competent to stand trial in a psychological report dated March 3, 2007.

mental disease or defect rendering him mentally incompetent to stand trial, primarily because he has been unable to communicate rationally with either of the attorneys appointed to represent him. Moreover, on June 16, 2008, defendant, acting *pro se*, filed a document entitled “Affirmative Defense” which states in part that during the time of the offenses charged in this case he “was in a state of psychosis” and “was legally insane suffering from diminished capacity...” (See Docket No. 27, at pp.6-7). Accordingly, on July 10, 2008, this Court issued an “Amended Order for Psychiatric or Psychological Evaluation of Defendant” to determine if he is competent to stand trial in this action (See Docket No. 32), with the agreement of Assistant United States Attorney Robert W. Haviland, counsel for the government, and defense counsel Mr. Henry M. Scharg. Thereafter, Dr. Jason V. Dana, Clinical Psychologist, (“Dr. Dana”) evaluated Defendant and submitted a written report to the Court, wherein Dr. Dana opined that Defendant is competent to stand trial.

On November 14, 2008, the Court conducted a hearing. At that hearing, the Government and Defense Counsel both indicated their belief that Defendant is competent to stand trial.

Nevertheless, this Court must determine whether Defendant is competent to stand trial. In order for Defendant to be deemed incompetent to stand trial in this action, this Court must determine that, by a preponderance of the evidence, Defendant is presently suffering from a mental disease or defect rendering her mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against her or to assist properly in his defense. 18 U.S.C. § 4241. “The determination of whether a defendant is mentally competent to stand trial is a question left to the sound discretion of the district court, with the advice of psychiatrists [or other mental health professionals].” FED. PROC. § 22:549, *Hearing and*

Determination as to Competency; United States v. Davis, 365 F.2d 251, 256 (6th Cir. 1966).

As stated on the record on November 14, 2008, after consideration of the expert report submitted by Dr. Dana, this Court concludes that the evidence establishes that Defendant is competent to stand trial in this matter.

Accordingly, the Court **ORDERS** that Defendant is competent to stand trial in this action.

IT IS SO ORDERED.

s/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: November 17, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 17, 2008, by electronic and/or ordinary mail.

s/Jennifer Hernandez
Case Manager